

REMARKS

I. Nationalization

This application represents the U.S. national stage under 35 U.S.C. § 371 of International Patent Application PCT/US03/01135, filed January 15, 2003, which claims priority to U.S. provisional application Serial No. 60/348,604, filed January 15, 2002.

Priority to the provisional application was already claimed at page 1 of the specification. As a precaution, a further amendment is being made to page 1 of the specification to positively recite that this application is a nationalization of PCT Application Serial No. PCT/US03/01135. This amendment to the specification complies with the revisions to 37 C.F.R. § 1.121.

As the text of the International Application was filed with the U.S. receiving office, an additional copy is not required to satisfy 35 U.S.C. § 371(c)(2). However, a substitute of the specification is enclosed, which includes line numbers inadvertently omitted from the PCT specification. As a further precaution, additional copies of the PCT formal drawings are also enclosed.

The PCT application underwent Chapter II examination, using the U.S. Patent and Trademark Office ("Office") as the International Searching and Examination Authority (ISA/IEA). The International Preliminary Examination Report (IPER; copy enclosed) found all claims to be drawn to a unified inventive concept, and was completely positive on all aspects of patentability for all claims. The present claims are therefore in condition for allowance (see Section V).

II. National Stage Claims

After according a U.S. filing date, entry of the foregoing claim amendments is respectfully requested.

The sole amendment to the PCT claims is made to improve the grammatical construction of claim 75. Certain new claims are also added, which are unified with the claims examined and determined to be patentable during PCT examination. The new claims are fully supported by the specification and do not in any way constitute new matter.

III. Status of the Claims

Prior to entry into the national stage, claims 1-78 were pending. These claims received U.S. examination in the PCT phase and found to have unity of invention and to comply with all requirements for patentability. Presently, claim 75 has been amended to improve the grammar. Claims 79-82 have been added, which are unified with the PCT claims and fully supported by the specification as filed.

Claims 1-82 are therefore in the case. According to the revisions to 37 C.F.R. § 1.121(c), a copy of the pending claims is provided in the amendment section.

IV. Support for the Claims

There is only one minor amendment to the claims from the PCT stage. The new claims are fully supported by the specification as detailed below.

Claim 75 has been amended to improve the reference to the recited tissue as a tissue comprising a substantial blood fraction. This is a grammatical change only and is supported by the claims and specification as filed.

New claim 79 is an additional independent claim supported throughout the claims and specification as filed, with particular written description support in the specification, *e.g.*, at least at page 6, lines 12-21.

Claim 80 recites imaging, rather than imaging or treatment, and is supported throughout the claims and specification as filed, with particular written description support in the specification, *e.g.*, at least at the paragraph bridging pages 6 and 7.

New claim 81 concerns generating an image of a vascularized tissue by *in vivo* diagnostic light imaging, which is supported throughout the claims and specification as filed, with particular written description support in the specification, *e.g.*, at least at page 7, lines 5-9.

Claim 82 is particularly directed to optical coherence tomography imaging, which is supported throughout the claims and specification as filed, with particular written description support in the specification, *e.g.*, at least at page 15, lines 21-25.

It will therefore be understood that no new matter is encompassed by any of the present claims.

V. The Claims are Allowable

After a search and Chapter II examination in the U.S., the Office determined that each of claims 1-78 were drawn to a unified invention, which was novel and inventive, clear and fully supported by the specification. As shown in the IPER (copy enclosed), the Office thus determined that all claims were patentable.

Present claims 1-78 are the same as the claims from the PCT application, except one minor change. Claims 79-82 are additional claims based upon the claims in the PCT application, but with alternative language taken from the specification. Therefore, the positive IPER is compelling evidence that the present claims have utility and define with clarity a novel and non-obvious invention that is properly supported by the specification. As the present claims have already been found to define a unified and patentable invention, the application is in condition for allowance and an early indication to this effect is respectfully solicited.

VI. Fees and Formalities

The national filing fee and claim fees are included herewith. The fees have been calculated after the additional claims. Any omitted fees should be deducted from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/4003.003100. The Applicant is entitled to small entity status. A verified statement is no longer required to perfect such entitlement.

VII. Conclusion

In conclusion, as evidenced by the IPER, the present application is in condition for allowance. Should the Office have any questions or comments, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,
Williams, Morgan & Amerson, P.C.
Customer No. 23720



Shelley P.M. Fussey, Ph.D.
Reg. No. 39,458
Agent for Applicants

10333 Richmond, Suite 1100
Houston, Texas, 77042
(713) 934-4079

Date: June 25, 2004